

**SENATE WORKFORCE DEVELOPMENT COMMITTEE
SENATOR MIKE WOBBERA, CHAIR
MARCH 9, 2023**

**NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION
PRESENTING TESTIMONY IN SUPPORT OF HOUSE BILL 1280**

Chairman Wobbema and members of the Senate Workforce Development Committee, my name is Kristen Kiemele, and I am a Probation and Drug Court Officer for the North Dakota Department of Corrections and Rehabilitation (DOCR). I have been a licensed peace officer and probation officer for over six years, and a drug court officer for almost four years in Cass County. I am here to testify on behalf of the department in support of House Bill 1280.

Drug court's mission is to keep the community safe by holding clients accountable, providing opportunities for positive change, and reducing recidivism. The drug court team is made up of a district court judge, an assistant state's attorney, defense attorney, licensed addiction counselor, mental health coordinator and me, the probation/drug court officer.

Drug court is considered an intensive supervision program lasting a minimum of one year. Individuals in drug court are supervised at a greater extent than any other probationer in the state. Participants in drug court are placed under the following requirements in order to graduate: participate in and successfully complete intensive outpatient treatment and aftercare totaling around nine hours per week at first and then decreasing level of care as the client progresses through the program; meet with the probation officer once a week; attend two community support groups per week; provide a minimum of two drug and/or alcohol tests per week, even if those participants are on

24/7 monitoring; obtain and maintain full-time employment; and obtain and maintain suitable housing.

Throughout their time in the program, clients are also required to participate in Thinking for a Change, which is a cognitive restructuring class that educates on social skills, cognitive self-change and problem solving. It allows clients to identify risk and then develop and practice healthy coping skills when dealing with risk. This class has already been approved in lieu of the defensive driving course often required by the North Dakota Department of Transportation (DOT) for a client to complete prior to receiving a temporary restricted license or having their license reinstated.

The requirements listed above are mandatory for every client in our program, which means that if the client does not have legal means of transportation, i.e., a driver's license or temporary restricted license, they are burdened with relying on others for rides or paying exuberant amounts of money for public transportation. Both of these modes of transportation can be unreliable, putting the client at risk to violate their conditions of drug court due to circumstances out of their control, especially during the winter months. For example, public buses often don't run, or only run at certain times, when we experience inclement weather. Driver's license suspension may also have collateral and/or unintended consequences such as job loss, difficulty in finding employment, and reduced income. If clients cannot report as required or fulfill normal, everyday responsibilities because of transportation challenges, how do we expect them to meet the obligations the courts have placed upon them to be successful and function as productive members of society? Isn't that the goal?

The following portion is in reference to issuing a temporary restricted license:

The current process of applying for a temporary restricted license varies from person to person, however for most, the list of requirements prior to being able to even apply for a temporary restricted license is overwhelming. Clients are often required to pay all outstanding fines and fees across the state and provide notification of payment to the DOT, purchase new driver's licenses, pay reinstatement fees totaling hundreds of dollars, take a defensive driving course, retake the written and road tests, satisfy requirements with child support enforcement, obtain SR22 insurance, and clear all out-of-state suspensions and/or holds before even getting the opportunity to apply for a temporary restricted license. Such obstacles can discourage clients from even trying.

Individuals fresh out of jail or prison and in recovery already have the odds stacked against them from many angles. Lack of legal transportation does not need to be one of them. If an individual is granted a temporary restricted license while actively participating in the drug court program, it would eliminate the burden of relying on others for their own success. It would reduce the risk of a client driving under suspension to attend required programming ordered by the courts. It would also reduce the number of driving under suspension charges that create a revolving door of fines/fees, court time for appearances, failure to pay warrants, police time arresting on these warrants, and so on. Those who can pay the fines typically do. To them a ticket is a minor annoyance. For those who cannot pay, such as someone fresh out of jail or prison and in recovery with minimal resources, the simple citation can have devastating effects. In most jurisdictions, courts have several options when someone does not pay their fines. All too often the action of choice is further financial burdens, suspension of a driver's license or

worse, incarceration. For those unable to pay, the traffic ticket does not change their driving behavior, it ruins their lives.

My philosophy since becoming a probation officer is that I work for the Department of Corrections and *Rehabilitation*. My job is to provide opportunities for change to my clients, while simultaneously keeping the community safe. The individuals we work with in drug court are coming out of very short-term jail or prison sentences, meaning they are going to be our neighbors one day – we want them to be good and law-abiding ones. Drug court provides the resources for recovery, employment, housing, mental health, finances, parenting, etc., that will make someone a good neighbor, so it's pertinent that clients have legal transportation to ensure that happens. If our goal is to reduce recidivism even on the smallest scale, then this is one way we can do that.

The following portion is in reference to the Court having authority to suspend 24/7 requirements while participating in drug court programming:

The requirements listed above are mandatory for every client in our program, and if a client is in drug court for DUI, they currently have additional mandatory conditions of 24/7 alcohol monitoring, either in the form of two breathalyzers a day or an alcohol monitoring ankle bracelet. If it is a DUI-drug offender, they are required to participate in 24/7 in the form of a drug patch.

Drug patches and 24/7 alcohol monitoring are a form of risk control, not risk reduction. Together, 24/7 alcohol and drug monitoring are simply a constant reminder not to drink or use drugs. However, it has no effect on the actual cognitive restructuring of a client, meaning it does not help a client to use new thinking regarding substance

use. Drug court as a whole, on the other hand, is a program that provides the resources for risk control and risk reduction all in one, as evident by the conditions outlined at the beginning of this testimony.

Drug court is made up of a team. However, the district court judge is the ultimate decision maker, just as he or she is in a courtroom. The judge on our team is the lead discretion holder for everything including acceptance into the program, rewards, sanctions, no-contact orders, jail holds, intermediate measures, terminations, etc. The district court judge should also have discretion in suspending 24/7 requirements.

By giving the court the authority to suspend 24/7, it provides the client the opportunity to demonstrate the skills and healthy coping mechanisms learned in the program, while still under the jurisdiction of a district court in a controlled setting. If concerns would arise, or substance use would occur during the suspension, the team would quickly address the issue and the courts would respond appropriately, including placement back on 24/7.

Chairman Wobbema and members of the Senate Workforce Development Committee, on behalf of the DOCR, I ask that you support House Bill 1280. I will now stand for questions.